

**ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD  
MINUTES OF MEETING HELD JANUARY 23, 2002  
PHOENIX, AZ**

A public meeting of the Arizona Peace Officer Standards and Training Board was convened on January 23, 2002, at AZ POST, 2643 E. University Drive, Phoenix, AZ

**Members Present:**

Chairman Jack Rose  
Assistant Director Rod Covey, representing Director Garrett  
Assistant Director Ron Zuniga, representing Director Stewart  
Chief John Corder  
Chief Jerry Sheridan  
Sergeant Gary Eisenga  
Ms. Laura Reckart, representing Attorney General Napolitano  
Mr. James Garcia  
Ms. Jan Cross

**Members Absent:**

Attorney General Janet Napolitano  
Director Dennis Garrett  
Director Terry Stewart  
Chief Harold Hurtt  
Sheriff Clarence Dupnik  
Sheriff Joe Richards

**Staff in Attendance:**

Tom Hammarstrom  
Lyle Mann  
Lynn Larson  
Gary Maschner  
Steve Jacobs  
Ted Brandon  
Colin Peabody  
Sgt. Marie Dryer  
Officer Julie Love  
Carol Muskus  
Lois Sherlock

**Counsel for Board in Attendance:**

Diana Stabler, Asst. A.G.

Guests in Attendance:

Daniel Christl, Attorney General's Office  
George John, Navajo Department of Law Enforcement  
Tony Pablo, Gila River Police Department  
Ken Witkowski, Gila River Police Department  
Kay Gojkovich, ASU Police Department  
John L. Pickens, ASU Police Department  
Luis Martinez, Gila River Police Department  
Sarah Blanton, Winslow Police Department  
Chuck and Mauray Hodge, Winslow Police Department  
Jim Sepi, Winslow Police Department  
Heidi Lowe, AZ Police Corps  
Jerald L. Monahan, AZ Police Corps  
Suzanne Pankiewicz, CARLOTA  
Eben Bratcher, Yuma County Sheriff's Office  
Jerald Thompson Sr., San Carlos Recreation & Wildlife  
Sam Weiss, CARLOTA  
George White, SALETC  
Bill Richards, SALETC  
Rich Kush, ALEA  
Derwin Cooper, Gila River Police Department  
Dan Hughes, Surprise Police Department  
Herman Nixon, Surprise Police Department  
Fernando Hernandez, Gila River Police Department  
Dennis Velarde, Gila River Police Department  
Pat Hubbertt, Gila River Police Department  
Richard T. Platt, Pinal County Attorney's Office  
Hugh Grant, Gila River Police Department  
Bobby Joe Harris, Chandler Police Department  
Tom Blaine, Chandler Police Department  
Joe Gaylord, Chandler Police Department  
Chuck Erickson, Cental Arizona Project  
Greg Barnargas, Gila River Police Department  
Kim Humphrey, AZRCPI  
Carlos Miller, AZ Republic  
Tamka Cheatham, City of Glendale  
Debbie Francis, Pinal County Sheriff's Office

**A. CALL TO ORDER**

Chairman Rose called the meeting to order at 1:34 p.m.

**B. INTRODUCTIONS**

Chairman Rose introduced Dan Hughes, the newly appointed Police Chief for the Surprise Police Department, and welcomed Chief Hughes to Arizona. Chief Hughes has 25 years experience with the Springfield, Illinois police department.

**C. CONSENT AGENDA**

Tom Hammarstrom requested the Income and Expense Report be removed from the Consent Agenda and placed on the Regular Agenda for discussion.

This request, along with the Consent Agenda, was approved unanimously, motion made by Chief Corder, seconded by Mr. Garcia.

1. Minutes of the meeting held on November 28, 2001, were approved as written.

2. The next scheduled Executive Session in accordance with A.R.S. § 3-8-431.03(A)(1), (A)(2), (A)(3) or (A)(4) is Wednesday, March 20, 2002, 1:00 p.m. at the Windermere Hotel, 2047 S. Highw

ay 92,  
Sierra  
Vista,  
AZ.

3. The next scheduled Regular Meeting is Wednesday, March 20, 2002, 1:30 p.m., at the Windemere Hotel, 2047 S. Highway 92, Sierra Vista, AZ.

4. Ministerial Actions:

- a. Certification Waivers: The following individual(s) have met the requirements set forth in AZ POST Rule R13-4-110 and have successfully completed the testing process and verification by AZ POST staff. Therefore, upon Board direction, certified peace officer status has been granted to:

Gregory P. Donewar	Holbrook Police Department
Matthew E. Ecker	Paradise Valley Police Dept.
David R. Mullin	Globe Police Department
Benjamin L. Richardson	AZ Attorney General's Office
Michael W. Rushing	AZ State University DPS

- b. Instructor Certification Renewals: LIST ATTACHED TO MINUTES
    - c. Training Program Approvals: Agency requests were reviewed by staff and found to comply with Board guidelines. Programs were approved as requested. LIST ATTACHED TO MINUTES.
    - d. Decertification Case Status Report Updates: As of January 7, 2002, the Compliance and Standards Unit has a case load of 85 active decertification cases in various stages of the process. Nineteen cases are ready for initial presentation, 20 cases require further investigation, 4 cases are pending service of or response to a Notice of Complaint or Decision, 8 cases are pending hearing, 8 cases are ready for final action, and 26 cases are pending outside activity, i.e., a criminal trial or civil service hearing.

D. REGULAR AGENDA

1. Tom Hammarstrom spoke before the Board on the issue of the Income and Expense Statement - November 2001.

Funds as of July 1, 2001	\$ 975,033.09
CJEF Revenue	403,231.45
Expenditures/Encumbrances	(347,419.65)

Balance for September 30, 2001                      \$1,030,844.89

Tom Hammarstrom reported the balance for September 30, 2001 is \$1,030,844.89. The average monthly expenditure for fiscal year 2002 has been approximately \$500,000 per month. POST's policy is to try and maintain a month's expenditures within the balance because it cannot be predicted how the fund will perform based upon the performance of the Criminal Justice Enhancement Fund (CJEF).

In October, POST had \$270,000 in surplus performance over the projected performance of \$416,000. Additionally, position vacancies have been carried over the last six months, which we are now attempting to fill. The vacancies have contributed to the surplus in the balance of the fund.

This is not surplus money. POST has obligations that the Board entered into in fiscal year 1999 that totaled \$700,000 per year. The obligations consist of a \$500,000 per year contractual agreement with the City of Phoenix for the operation and capital improvements at the Arizona Law Enforcement Academy (ALEA). It also includes a \$200,000 per year contractual agreement with the City of Tucson for the operation of the Southern Arizona Law Enforcement Training Center (SALETC). Both of the contractual agreements are for a period of 10 years totaling \$7 million dollars.

When the Board entered into these contracts in 1999, the Board took the decision that basic training was the first responsibility and the first priority of the Peace Officers' Training Fund (POTF), and that among the competing interests, in-service training would be limited in favor of these contractual agreements. We have obligated the POTF for 10 years for very substantial expenditures.

When the Board made that decision, the traditional in-service allocation funding for each agency was eliminated. There was a formula whereby each agency received a flat amount, approximately \$1000.00, and then a per capita amount of \$5.00 or \$6.00 per certified officer in the agency. This money was then allocated within the POTF and the agency head could make decisions on how to use that money for training its personnel and make claims for reimbursement against the allocated amount. The program was a success. It balanced the use of the POTF effectively between large and small agencies, and it was generally a valuable and popular program. We have been unable to have an allocated in-service training fund over the last several years based upon our decision to invest in the basic training infrastructure.

Tom Hammarstrom suggested that the Board consider directing staff to make a payment to the City of Phoenix in the amount of \$250,000.00. This will pay out POST's obligation to the City of Phoenix in advance for a six-month period; and, in fact, will pay out that obligation until the end of fiscal year 2003. This is money that we are obligated to pay over the next five years whether or not the POTF performs to our projections and expectations. In light of that expenditure, Tom Hammarstrom also suggested that the Board direct staff to re-institute a policy of keeping an in-service allocation account available for agency heads to use.

As an example, if \$250,000 were made available for in-service allocation training, with a formula of \$1000 per agency and \$6.00 per certified officer, that would equal \$248,000 a year based upon 170 agencies and 13,000 certified peace officers. For an agency with 2,000 officers that would be a \$13,000 annual stipend. For an agency with 20 officers, that would \$1,100 annual stipend. This is balanced so that the money is being distributed fairly, taking into account the needs of smaller agencies, and not transferring all of the money to agencies with a larger number of officers. Essentially, that is the formula that had been used in the past.

Tom Hammarstrom stated he had discussed this with Chief Bobby Joe Harris, the Chairman of the Finance Advisory Group, and Chief Harris supported this payment.

Chairman Rose asked how long this process would take before the agencies could request their share of the in-service allocation. Tom stated the agencies will have to be re-educated about the availability of the fund, how to use it, how to make claims against the fund, etc. As POTF monies, the agency heads will have to make the expenditure for in-service training, and then apply for reimbursement. This process should be in place by the end of the fiscal year in June.

Tom Hammarstrom requested that a formal motion be made to direct POST staff to make this payment to the City of Phoenix.

Chief Corder made a motion to make an advance payment to the City of Phoenix for the obligation of \$250,000.00 and re-instate the in-service allocation fund, seconded by Assistant Director Covey, motion carried unanimously.

2. Petition of AZ POST Drug Experimentation Rule by the San Carlos Recreation & Wildlife Department for Applicant Emerson Baylish. Mr. Lyle Mann reported the San Carlos Recreation & Wildlife Department has petitioned the Board to determine that the 11 uses of marijuana, with 7 uses since the age of 21 and last usage in November 1996 by Emerson Baylish, to have been experimental. Mr. Baylish's marijuana use exceeds the experimentation rule by two uses.

Chief Sheridan made a motion to grant the petition for a determination that the pre-employment uses of marijuana by Emerson Baylish was experimental given the unique circumstances, seconded by Mr. Garcia, motion carried unanimously.

3. Policy Concerning "Service Ammunition" for the Purpose of Firearms Qualification. Mr. Lyle Mann stated that according to the current rules, service ammunition must be used during qualification.

The Board has always sought to ensure that its firearms qualification requirement was as accurate a test as possible of an officer's ability with a firearm. Therefore, a rule was adopted which required the use of "service ammunition" for all qualification shoots. The definition of "service ammunition" was "full performance loads equivalent in all respects to that carried on duty."

This matter is now before the Board because one of the changes in the proposed rules is a redefinition of the term "service ammunition". It will soon mean "munitions that perform equivalently in all respects when fired during training or qualification to those carried on duty by the peace officer." The factors taken into account when applying the standard of "perform

equivalently" include such things as trajectory, accuracy, recoil, target reacquisition, muzzle flash during night shoots, but lastly, it is the shooter's inability to distinguish between firing their normal duty rounds with the rounds provided for the qualification shoot that is critical.

The Phoenix and the Chandler Police Departments, and others, have sought ways to use their indoor shooting ranges for qualification shoots, but have always been stymied because the frangible, non-lead ammunition that must be used in those situations did not meet the standard. However, technological advances in the manufacturing of frangible ammunition (i.e., changing from porcelain to metal bullets) have now created a munition which appears to meet the proposed standard.

The Chandler Police Department found the technical aspects of their duty round and their frangible round very comparable. POST staff, with Chandler's assistance, tested the difference by firing both types of munitions. In blind tests, and in tests with full knowledge of which bullets would be fired, absolutely no difference in the experience or performance were found.

The frangible ammunition actually costs more than duty rounds, but if Chandler and Phoenix are allowed to conduct qualification shoots in their indoor ranges, they will save considerable on-duty time and transportation costs. In Chandler's case, finding a range which will allow them to fire "lead" bullets is becoming more and more problematic because they do not have a facility like the Phoenix academy.

The Board considered comments from Chief Harris in support of using frangible ammunition. Chief Sheridan made a motion that given the terminology under the proposed rules, and based upon a finding that it is in the best interest of law enforcement and public safety is not jeopardized, I move that agencies may submit attestations of equivalency for munitions to be used for firearm qualifications. Further, I move that staff develop an exemplar letter that, if followed, would contain sufficient information to constitute an attestation of equivalency, seconded by Chief Corder, motion carried unanimously.

4. Request for Restricted Certification for Russell J. Huber from the Pinal County Attorney's Office. Mr. Lyle Mann reported that the Pinal County Attorney's Office appointed Russell J. Huber as a peace officer on October 24, 2001. Mr. Huber had previously been employed as a peace officer with the Mesa Police Department from March 17, 1980 to March 1, 1997, at which time he received a full medical retirement.

On October 27, 2001, an AZ POST medical evaluation was completed on Mr. Huber. The examining physician determined that Mr. Huber's shoulder was

not fit for "physical training/exertion." The physician further indicated that he was "OK for administrative functions."

On November 6, 2001, Pinal County Attorney Robert C. Olson, submitted a letter to the Board explaining that the agency would like to utilize Mr. Huber's expertise in the subject matter of child abuse and child fatalities. He would be used primarily in an advisory role. The agency has no intention of using Mr. Huber in such a way that he will be required to engage in pursuits or strenuous activities.

The Board considered comments from Mr. Richard Platt from the Pinal County Attorney's Office. Sergeant Eisenga made a motion to grant the request for restricted certification for Russell J. Huber under A.A.C. Rule R13-4-107(J), providing he meets all the minimum qualifications and successfully completes the waiver process. His certification would be restricted to administrative duties only during assigned working hours and only while employed with the Pinal County Attorney's Office. The motion was seconded by Mr. Garcia, motion carried unanimously.

5. Training Audit Deficiencies for 111 Officers with the Navajo Division of Public Safety Officers for Calendar Year 2000. At the November 28, 2001, Board meeting, the Board voted to initiate proceedings towards a possible suspension of the peace officer certification of each Navajo DPS officer who failed to correct their identified training deficiencies by January 23, 2002.

The Navajo Department of Public Safety has dealt with the deficiencies and provided documentation on all of the officers with the exception of five officers who failed to correct and identify their training deficiencies.

The Board considered comments from Sgt. George John of the Navajo Department of Public Safety. Chief Sheridan made the motion to suspend the certification of each peace officer identified as not-in-compliance under Rule 13-4-109(B). Each suspension is to remain in effect until staff receives documentation during the particular continuing or firearms deficiencies noted in the list. The peace officers are: Greg Adair, Jones R. Begay, Jr., Dorothy Fulton, Sarah J. Habaadih, and Ivan G. Tsosie. The motion was seconded by Chief Corder, motion carried unanimously.

## **E. REPORTS**

### **1. AZ POST**

#### **a. Special Projects**

Mr. Lyle Mann reported that the proposed rules have been submitted to the Secretary of State's Office for publication. It is anticipated the rules will be published on February 8, 2002, in the Register. The 30-day window of response will be initiated at that time. A person may provide either written or verbal comment on the proposed rules. POST has scheduled the public comment for March 26, 2002, at AZ POST. The next step will be to submit the proposed rules to the Governor's Regulatory Review Council (GRRC) for their approval. GRRC meets on the first Wednesday of the month, so we are hopeful that we will be on their agenda by May or June.

b. Legislative Update

Mr. Hammarstrom reported that the Legislature is in session, and there are several legislative issues that were brought before the Board. Tom summarized the following bills:

**HB 2123** - Postal Inspector as Peace Officer. The requirement for county sheriffs to cross-certify federal peace officers is expanded to include U.S. postal inspectors. POST's responsibility would be to keep the records of the certified postal inspectors.

**HB 2316** - Peace Officer Training in Mental Illness. Peace officer training must include resolving situations involving mentally ill people.

**HB 2348** - Law Enforcement Training Property. Title to the Arizona Law Enforcement Training Academy (ALEA) in Tucson, which is currently operating as the Correctional Officer Training Academy (COTA), is to be transferred to the Corrections Department; allocation of proceeds for any future sale of the property is prescribed. This bill follows up on the Board's resolution to support the transfer of title of the old ALEA training campus to the Department of Corrections for COTA.

**HB 2357** - Law Enforcement Personnel Actions. If the law enforcement council or a court reverses or reduces discipline ordered by the department head, the officer may be awarded attorney fees in connection with the appeal, but if the order was a reduction in force, the provision does not apply. This bill allows an officer that is being disciplined by a department whose discipline is later overturned to claim attorney fees. POST will not be impacted by this bill.

**HB 2430** - Officers Bill of Rights. Peace officers, correctional officers and probation officers have prescribed rights when they are being

investigated by their employers. The Board considered comments by Diana Stabler concerning this bill.

**HB 2433** - The requirement that the Peace Officer Standards and Training Board prescribe moral fitness qualifications for officers is repealed. This bill would change the statute and eliminate the Board's authority to prescribe moral fitness standards.

2. BASIC TRAINING

No report.

3. POLICE CORPS

Assistant Director Jerald Monahan reported that AZ Police Corps is currently in a "holding pattern." They learned on December 13, 2001, from the Acting Director of the Office of the Police Corps that the funding for Police Corps had been cut in half based on the Department of Justice transfers of monies to cover the September 11<sup>th</sup> investigations. They have since been told by Robert Maxwell, the new Director of the Office of Police Corps, that they may still be fully funded. Decisions will be made concerning funding in the near future. There have been 290 applications sent out that were requested from individuals across the state and out-of-state. Of that, 19 applications were received. Tests were given twice; three seniors were involved in the tests. With the "on hold" status, they are looking at the potential start date of September. If they are facing budget cuts, they will be looking at an October start date. Staff is currently working on policy and curriculum.

4. DEPARTMENT OF CORRECTIONS

No report.

5. ARIZONA REGIONAL COMMUNITY POLICING INSTITUTE.

Commander Humphrey announced that they have finished the curriculum on Ethics and Integrity. It is a one day line-level course. The title is "Sharpening Your Ethical Edge: Tactics and Tools." The first two courses are scheduled for January 29 and January 31. The seminar is being held at ASU. As the demand grows, the AZRCPI will be scheduling more classes.

At this time, Chairman Rose and Executive Director Hammarstrom presented Lieutenant Debbie Francis with a plaque in appreciation for her outstanding contributions as a member of the Board. With her promotion to Lieutenant, Debbie had to step down from her duties as a Board member because her position on the Board has to be held by a line officer or

Sergeant. Chairman Rose and Tom Hammarstrom congratulated her on her promotion and wished her well on her new duties.

F. CASES: Consideration and possible action on the certified status of peace officers.

Case #1 - Charles V. Austin - Tucson Police Department - The Board considered the Consent Agreement, Order and Decision (suspension for a period of 18 months, from September 24, 2001, to March 23, 2003). Mr. Garcia made a motion to adopt the Consent Agreement, Order and Decision, seconded by Chief Sheridan, motion carried unanimously.

Case #2 - Glenn E. Bell - Chandler Police Department - The Board considered the Consent Agreement, Order and Decision (suspension of certification for 3 months, from September 29, 2001, until December 28, 2001). Chief Sheridan made a motion to adopt the Consent Agreement, Order and Decision, seconded by Chief Corder, motion carried. *Mrs. Cross recused herself from voting.*

Case #3 - Sarah L. Blanton - Winslow Police Department - The Board considered the documentation regarding violations of R13-4-109(A)(7) and (8). The Board considered comments from Ms. Blanton and Officer Chuck Hodge. Mrs. Cross made a motion to adopt the Findings of Fact and Conclusions of Law and suspend certification for six months retroactive from the date of termination, seconded by Chief Corder, motion carried 6 to 3.

Case #4 - Jon R. Cope - Phoenix Police Department - The Board considered the documentation regarding violations of R13-4-109(A)(6)(7) and (8). The Board considered comments from Mr. Dan Christl from the Attorney General's Office. Sergeant Eisenga made a motion to adopt the Findings of Fact and Conclusions of Law and revoke certification, seconded by Ms. Reckart, motion carried unanimously.

Case #5 - Scott M. Miller - Williams Police Department - The Board considered the Consent Agreement, Order and Decision (voluntary relinquishment of certification). Mrs. Cross made a motion to adopt the Consent Agreement, Order and Decision, seconded by Chief Sheridan, motion carried unanimously.

Case #6 - Raymond D. Selvyn - Yuma County Sheriff's Office - The Board considered the documentation regarding violations R13-4-109(A)(1)(6) and (8). Chief Sheridan made a motion to adopt the Findings of Fact and Conclusions of Law and deny certification, seconded by Sergeant Eisenga, motion carried unanimously.

G. CALL TO THE PUBLIC

Chief Bobby Joe Harris wanted to take this opportunity to thank POST for their support concerning the frangible ammunition issue. Also, Chief Harris also wanted to thank Tom Hammarstrom for his efforts to complete the project concerning a data base for peace officer applicants. Chief Harris requested the Board encourage

agencies throughout the state to participate in this project. He explained that if a person applies to an agency, the agency will forward the information to AZ POST. POST will maintain the data base. The information may be accessed by law enforcement agencies throughout the state to help them in their background investigations. This would benefit everyone. This issue was discussed with the Arizona Chiefs of Police and the Sheriffs' Association.

The Arizona Chiefs of Police have a web site with a link to AZ POST. There is a centralized calendar on the site. Chief Harris encouraged the staff and any other agency that has meetings, training, etc., to utilize this calendar.

H. ADJOURN

Chairman Rose adjourned the meeting at 3:04 p.m.

Dated February 1, 2002

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Lois Sherlock, Recording Secretary

**MINUTES APPROVED:**

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